

Serial No. 10/532,588
Reply to Office Action Mailed: February 12, 2008
Attorney Docket No. 038665.56184US

Drawings

The attached sheet of drawings includes changes to Figures 1-3.

Attachment: Replacement Sheets

REMARKS

Favorable consideration and allowance are requested for claims 1-23 in view of the following remarks.

Status of the Application

Claims 1-23 are pending in this application. Claim 1 was provisionally rejected on the ground of nonstatutory double patenting over claim 4 of copending U.S. Patent Application Serial No. 10/532,593 (the “593 application”). Claims 1-3, 11, 19, 21, and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Szabó, “Performance Evaluation of a New End-to-end Measurement Based Call Admission Control Scheme for Supporting IP Telephony,” Proceedings of the 2001 International Symposium on Performance Evaluation of Computer and Telecommunication Systems (ISBN: 1-56555-240-7), Orlando, Florida, July 15-19, 2001, at pp. 498-505 (the “Szabó publication”). Claims 4 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Szabó publication in view of U.S. Patent Publication No. 2002/0118648 A1 to Zaencker (the “Zaencker publication”). Claims 5, 6, 13, and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Szabó publication in view of Elek *et al.*, “Admission Control Based on End-to End Measurements,” IEEE INFOCOM, March 26-30, 2000, vol. 2, at pp. 623-630 (the “Elek publication”). Claims 7, 8, 10, 15, 16, 18, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Szabó publication in view of the Elek publication and further in view of the Zaencker publication. Claims 9 and

17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Szabó publication in view of the Elek publication and further in view of the Zaencker publication and U.S. Patent No. 6,452,905 B1 to Smith *et al.* (the “Smith patent”). Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Szabó publication in view of the Smith patent. The specification and drawings were objected to. A substitute specification and amended drawings are being submitted herewith.

Objection to the Drawings

The Examiner stated that the drawings must be corrected to include legend labels. In response, corrected versions of Figures 1-3 are attached. No new matter has been added by way of these corrected drawings.

Objections to the Specification

The Examiner provided guidelines for amending the specification. In response, a substitute specification and a marked-up version of the same are attached. No new matter has been added by way of the substitute specification.

Rejection under 35 U.S.C. § 102(b)

According to the Examiner, the Szabó publication discloses the subject matter of claims 1-3, 11, 19, 21, and 23. In response, Applicants respectfully submit that the Szabó publication discloses – as acknowledged by the Examiner – the collection of “aggregate statistics (e.g., packet loss ratio)” for a network in order to determine whether a call can go through. Szabó publication at 499, col. 1, line 36. In the Szabó publication, “[w]hen a new call arrives at the gateway, it

compares the latest available statistics with the target value set for the telephony calls” *Id.* at 499, col. 1, lines 38-40. These statistics in the Szabó publication, however, are related to actual voice packet, not trial data: “At the end of each measurement period the receiving gateway sends a control packet to each sending gateway to inform the senders about the *loss statistics of their calls.*” *Id.* at 499, col. 2, lines 26-29 (emphasis added).

In contrast, claim 1 requires the use of “trial data” in order to determine whether transmission of data can be initiated from “the first node in the first local area network to the second node in the second local area network.” In other words, the method of claim 1 does not use aggregate statistics based on historical call data; rather, it uses this trial or sample data to determine whether a call can go through. *See Specification at 8 (“The second mechanism requires that telephones which are setting up a call will send a trial burst of ‘ping’ packets to the telephone which they are attempting to call before they send the signalling message which will cause the other telephone to ring.”).*

As the Szabó publication does not disclose the use of trial data to determine whether a call can go through, it does not anticipate claim 1. Therefore, Applicants respectfully request that the rejection of this claim be withdrawn. Similarly, as each of claims 2, 3, 11, 19, 21, and 23 depends directly or indirectly from claim 1, the rejection of these claims should be withdrawn as well.

Rejection under 35 U.S.C. § 103(a)

According to the Examiner, the combination of the Szabó and the Zaencker publications renders claims 4 and 12 obvious. In response, Applicants respectfully submit that the Zaencker publication does not disclose or suggest the subject matter of claim 1 missing from the Szabó publication. Therefore, as each of claims 4 and 12 depends indirectly from claim 1, the rejection of these claims should also be withdrawn.

The Examiner further stated that the combination of the Szabó and Elek publications renders claim 5, 6, 13, and 14 obvious. In response, Applicants respectfully submit that the Elek publication does not disclose or suggest the subject matter of claim 1 missing from the Szabó publication. Therefore, as each of claims 5, 6, 13, and 14 depends indirectly from claim 1, the rejection of these claims should also be withdrawn.

The Examiner also stated that the combination of the Szabó, Elek, and Zaencker publications renders claims 7, 8, 10, 15, 16, 18, and 20 obvious. As neither the Elek publication nor Zaencker publication discloses or suggest the subject matter of claim 1 missing from the Szabó publication, Applicants respectfully submit that the rejection of these claims, each of which depends indirectly from claim 1, should also be withdrawn.

The Examiner additionally stated that the combination of the Szabó, Elek, and Zaencker publications, and the Smith patent renders claims 9 and 17 obvious. In response, Applicants respectfully submit that the Smith patent does

not disclose or suggest the subject matter of claim 1 missing from the Szabó, Elek, and Zaencker publications. Therefore, the rejection of these claims, each of which depends indirectly from claim 1, should also be withdrawn.

The Examiner further stated that the combination of the Szabó publication and the Smith patent renders claim 22 obvious. As the Smith patent does not disclose or suggest the subject matter of claim 1 missing from the Szabó publication, Applicants respectfully submit that the rejection of this claim, which depends indirectly from claim 1, should also be withdrawn.

Double-Patenting Rejection

According to the Examiner, claim 1 “would be covered by any patent granted on” the ‘593 application. In particular, the Examiner asserted that claim 4 of the ‘593 application and claim 1 of the instant application “are claiming common subject matter.” In response, Applicants respectfully submit that the outstanding rejection does not account for the differences in scope between claim 1 of the instant application and claim 4 of the ‘593 application, and, therefore, the rejection should be withdrawn.

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If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

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If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #038665.56184US).

Respectfully submitted,

August 12, 2008

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